

# State of Wisconsin

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## Joint Committee on Finance

### MEMORANDUM

To: Members  
Joint Committee on Finance

From: Senator Howard Marklein  
Representative Mark Born

Date: October 1, 2021

Re: s. 16.515/16.505(2), Stats. Request

Attached is a copy of a request from the Department of Administration, received October 1, 2021, pursuant to s. 16.515/16.505(2), Stats., on behalf of the Office of the Commissioner of Insurance.

Please review the material and notify **Senator Marklein** or **Representative Born** no later than **Tuesday, October 19, 2021**, if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

HM:MB:jm



STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor  
Joel Brennan, Secretary

**Date:** September 30, 2021

**To:** The Honorable Howard Marklein, Co-Chair  
Joint Committee on Finance

The Honorable Mark Born, Co-Chair  
Joint Committee on Finance

**From:** Joel T. Brennan, Secretary *JTB*  
Department of Administration

OCT 01 2021  
*St. Finance*

**Subject:** s. 16.515/16.505(2) Request(s)

Enclosed are request(s) that have been approved by this department under the authority granted in s. 16.515 and s. 16.505(2). The explanation for each request is included in the attached materials. Listed below is a summary of each item:

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u> <u>AMOUNT</u>	<u>FTE</u>	<u>2022-23</u> <u>AMOUNT</u>	<u>FTE</u>
OCI 20.145(1)(g)	General program operations	\$38,700	1.0	\$77,400	1.0

As provided in s. 16.515, the request(s) will be approved on October 21, 2021, unless we are notified prior to that time that the Joint Committee on Finance wishes to meet in formal session about any of the requests.

Please contact Kirsten Grinde at 266-1353, or the analyst who reviewed the request in the Division of Executive Budget and Finance, if you have any additional questions.

Attachments

**Date:** September 30, 2021

**To:** Brian Pahnke

**From:** Joseph Lessner

**Subject:** Section 16.515/16.505(2) Request(s)

Attached is a s. 16.515/505(2) request analysis for your approval and processing.  
Listed below is a summary of each item:

**DOA RECOMMENDATION:**

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u>		<u>2022-23</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
OCI 20.145(1)(g)	General program operations	\$38,700	1.0	\$77,400	1.0

**AGENCY REQUEST:**

<u>AGENCY</u>	<u>DESCRIPTION</u>	<u>2021-22</u>		<u>2022-23</u>	
		<u>AMOUNT</u>	<u>FTE</u>	<u>AMOUNT</u>	<u>FTE</u>
OCI 20.145(1)(g)	General program operations	\$66,100	1.0	\$88,100	1.0

BP APPROVAL



(FORWARD TO GAIL TAPPEN)



# STATE OF WISCONSIN

## DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor  
Joel Brennan, Secretary  
Brian Pahnke, Administrator

**Date:** September 30, 2021

**To:** Joel Brennan, Secretary  
Department of Administration

**From:** Joseph Lessner  
Executive Policy and Budget Analyst

**Subject:** Request under ss. 16.505 and 16.515 from the Office of the Commissioner of Insurance for the creation of a 1.0 FTE insurance financial examiner permanent position.

**Request:**

Under the statutory provisions of ss. 16.505 and 16.515, the Office of the Commissioner of Insurance requests the conversion of a 1.0 FTE project position to a 1.0 FTE insurance financial examiner permanent position and a supplement of \$154,200 PR over the biennium in the office's general program operations appropriation under s. 20.145(1)(g).

**Revenue Source for Appropriation:**

The revenue sources for the permanent position in the general program operations appropriation under s. 20.145(1)(g) are assessments levied on insurance companies and fees paid by insurance intermediaries as well as revenue generated from publications made by the office. As the appropriation is an annual, amounts in the schedule, program revenue appropriation, there is an accompanying request for a supplement of \$66,100 PR in fiscal year 2021-22 and \$88,100 PR in fiscal year 2022-23. There will be sufficient cash in the appropriation to support the expenditure authority increase.

**Background:**

The Office of the Commissioner of Insurance is vested with broad powers to ensure that Wisconsin's insurance industry responsibly and adequately meets the insurance needs of Wisconsin citizens. The office performs a variety of tasks to protect insurance consumers and ensure a competitive insurance environment. The office is responsible for reviewing insurance policies that are sold in Wisconsin to make sure they meet the requirements set forth in Wisconsin law; conducting examinations of domestic and foreign insurers to ensure compliance with Wisconsin laws and rules; monitoring the financial solvency of licensed companies to make sure that consumers have the insurance coverage they expect when they need it; and issuing licenses to the various parties involved in selling and marketing insurance products.

The commissioner is required to report annually regarding the status of the insurance industry in Wisconsin, regulatory developments, consumer complaints and other activities of the agency. In 2020, the office manually reviewed and processed nearly 11,000 licensing

applications; licensed 1 new domestic insurer, 30 nondomestic insurers, 6 vehicle protection product providers, 1 life settlement provider, and 27 property service contract providers; examined 28 domestic insurance companies' finances and more than 2,000 financial statements; and responded to more than 12,900 consumer inquiries.

In April 2018, 1.0 FTE project position and 3.0 FTE permanent positions were created to address a backlog of examinations and reviews as well as to keep up with increased reporting and analysis requirements established by the National Association of Insurance Commissioners (NAIC). The association is a national standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, District of Columbia and five U.S. territories. Through NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight.

In their 2021-23 agency budget request, the office included the conversion of a previous project position to a permanent position to address the staffing needs outlined in this request. The request was subsequently removed during budget deliberations.

### **Analysis:**

The office has requested the conversion of 1.0 FTE project position; however, the project position was removed during the budget process. This analysis will discuss the creation of a new 1.0 FTE insurance financial examiner permanent position to meet increased workload demands resulting from new reporting and analysis requirements that are required to keep the Office of the Commissioner of Insurance, and, in effect, Wisconsin, accredited by NAIC. The NAIC Accreditation Program maintains standards across jurisdictions to promote financial solvency regulation in the insurance industry. The goal of ensuring that a baseline of insurance industry standards is met across all jurisdictions through participation in the accreditation program is to foster a more efficient and effective practice of insurance and insurance regulation. If another state is accredited, other jurisdictions can be confident that companies domiciled in that state meet certain baseline standards and therefore do not need to be examined as extensively, saving regulators, companies and customers time and money.

Conversely, if accreditation is not maintained, the jurisdictions where Wisconsin-domiciled insurers operate would feel the need to conduct examinations to guarantee baseline standards are met. Considering Wisconsin is home to a fair number of large insurers that operate across numerous jurisdictions, such as American Family Insurance, Northwestern Mutual, Sentry and Thrivent, a loss of accreditation is quite likely to increase costs for those insurers domiciled in the state, leading to increased premiums for consumers due to examination costs at the very least and the relocation of insurers outside of Wisconsin at the very most. All 50 states as well as the District of Columbia, Puerto Rico and U.S. Virgin Islands are accredited. The association conducts accreditation audits every five years, with the next audit scheduled to start in October 2022. According to the office, if NAIC finds the agency understaffed and unable to meet its workload demands, its accreditation could be jeopardized.

Since April 2018, NAIC has established additional accreditation standards. Starting in calendar year 2020, the office was required to obtain a Corporate Governance Annual

Disclosure report from all domestic insurance companies. Wisconsin currently regulates 233 insurance companies operating domestically.

At the same time, NAIC established a defined period of 120 days that the office is required to process Own Risk and Solvency Assessment reports and distribute the findings to all other applicable jurisdictions. Due to understaffing, two of 17 Own Risk and Solvency Assessment reports were not completed within the 120-day requirement in 2020.

Starting in July of 2022, the office will also be required to process Group Capital Calculation filings, which will be required by medium- and large-sized insurers. In sum, these new NAIC accreditation standards have added an estimated 2,400 annual work hours. With Wisconsin insurance industry growth trending upward, including licensing 43 more insurers in the state over the past 3.5 years, additional work for the office is anticipated on top of this estimate.

The office also described how the need for this position has affected other aspects insurance regulation. Since keeping Wisconsin accredited takes precedent, other duties often must be delayed until accreditation work is completed. For example, a backlog of town mutual insurer exams has existed for several years. Currently, 34 of 51 town mutual insurers still require an examination to be completed. For comparison, two of 28 and zero of 36 required town mutual examinations were completed in 2017 and 2018, respectively. Although the backlog of town mutual examinations has been reduced since the approval of the 3.0 FTE permanent and 1.0 FTE project positions in April 2018, the office states that this progress will reverse course due to increased reporting requirements necessitating that staff focus on maintaining accreditation.

As of September 7, 2021, the vacancy rate under the s. 20.145(1)(g) appropriation was 11.4 percent for permanent positions, or 14.0 FTE. The office currently does not have any LTE or project positions. The office states that it is actively recruiting for five vacant insurance financial examiner positions whose position assignments focus on insurance financial regulation and examinations. If all vacant positions were to be filled, it is still estimated that the office would need additional positions, not including the requested position, to meet anticipated workload demands. Given that estimate, the office is focusing on filling the current vacancies before analyzing the need for additional positions, which would be addressed in a separate, future request.

The office estimates the cost of the permanent position to be \$66,100 PR in fiscal year 2021-22 and \$88,100 PR in fiscal year 2022-23. The State Budget Office recommends modifying the requested funding to reflect two changes. First, the office inadvertently used a higher fringe benefit rate when calculating the fringe benefits funding. Second, it is reasonable to assume that, due to the timing of the request, six months of funding for this position in the first year is appropriate. Table 1 shows the recommended modifications.

**Table 1: Position Funding Comparison**

<b>Line</b>	<b>OCI Submission</b>		<b>SBO Recommendation</b>	
	<i>FY22</i>	<i>FY23</i>	<i>FY22</i>	<i>FY23</i>
Salary	\$41,400	\$55,000	\$27,500	\$55,000
Fringe Benefits	24,200	32,100	10,700	21,400
Supplies/Services	500	1,000	500	1,000
<i>Total</i>	\$66,100	\$88,100	\$38,700	\$77,400

If the position is not approved, the office stated that accreditation standards will still need to be met, resulting in the office needing to hire contract examiners which would cost more than the requested permanent position.

**Recommendation:**

Modify the request to provide a 1.0 FTE permanent insurance financial examiner position and modified funding to provide a supplement of \$38,700 PR in fiscal year 2021-22 and \$77,400 PR in fiscal year 2022-23.



Wisconsin Office of the  
**COMMISSIONER  
OF INSURANCE**

Tony Evers, Governor of Wisconsin  
Mark Afable, Commissioner of Insurance

DATE: August 30, 2021  
TO: Brian Pahnke, State Budget Director, Department of Administration  
FROM: Mark V. Afable, Commissioner  
SUBJECT: Position Authority for the Division of Financial Regulation

## Request

Under the statutory provision of s. 16.505 and s. 16.515, Wis. Stats. the Office of the Commissioner of Insurance (OCI) requests that our 1.0 FTE project permanent position in the Division of Financial Regulation (DFR) be converted to 1.0 FTE program revenue funded permanent position and a \$66,075 increase in expenditure authority for FY22 (\$88,100 annually thereafter) of program revenue expenditure authority. The position is classified as an Insurance Financial Examiner.

## Background

The position is currently funded through OCI's s. 20.145 (1) (g), Wis. Stats. general program operations appropriation which sources its revenue from a combination of assessments levied by OCI on insurance companies and fees paid by insurance agents to OCI. This position would continue to be funded in this manner without requiring any taxpayer dollars.

The project permanent position was provided to OCI based on a request to get an additional 6.0 FTEs in November 2017. In April 2018, OCI received authority for 3.0 permanent FTEs and 1.0 project permanent FTE from that request. Since the request, additional accreditation standards have been placed on OCI's Division of Financial Regulation; including additional reporting requirements for insurers that must be reviewed and new timelines for reviewing exiting filings.

## Analysis of Need

The position is needed on a permanent basis, so OCI can continue to fulfill its mission of protecting Wisconsin consumers and ensuring a strong, stable insurance marketplace.

When the State Budget Office (SBO) performed the analysis of need in 2018 it reflected that 2 of 28 required town mutual exams for 2017 were completed and 0 of 36 were completed in 2018. This backlog was created due to being understaffed during a period in which OCI was expected to meet new accreditation standards (i.e., requiring certain sized insurers to file an Own Risk Solvency Assessment Report (ORSA) and moving to risk-focused analysis) while increasingly more companies were domesticating to Wisconsin. Therefore, we have had more companies to



regulate, significantly updated our analysis process, and reviewed new filings without a staff increase to handle the additional workload.

To date we continue to have a backlog of town mutual exams due to additional reporting requirements being placed on the insurance industry that require an in-depth review by DFR staff. In addition, the NAIC has placed accreditation standards on timely review of the ORSA. The backlog of town mutual exams is currently 34 out of 51 town mutual insurers. This backlog is expected to continue growing without sufficient staffing as additional reporting is required by the industry alongside new accreditation requirements that DFR must adhere to for Wisconsin to be an accredited state. For example, the following has been established without additional FTEs:

1. Effective January 1, 2020, OCI's DFR is required to obtain a Corporate Governance Annual Disclosure (CGAD) from all domestic insurance companies that must be reviewed and followed-up on. These filings range in size largely based on the size of the insurer, but that is 233 filings. On average, it takes DFR staff one day for each CGAD to understand, review and follow-up with the insurer with questions. This equates to approximately 1.0 FTE focused on the CGAD.
2. In addition, effective January 1, 2020, OCI DFR staff are now requested to review insurers ORSA Reports within 120 days of receipt and then distribute our findings to other jurisdictions. Without sufficient staffing, OCI has not been able to meet this standard every year. Wisconsin currently has 17 insurers that are required to file the ORSA, and this is likely to increase in the future. It takes approximately one week per ORSA to review, follow-up with the company, and meet with the company to discuss their key solvency risks.

Based on the above analysis, it is imperative that OCI DFR retain this position on a permanent basis to protect Wisconsin consumers and meet accreditation standards established by the National Association of Insurance Commissioners (NAIC).

## **Benefit**

Making this position a permanent position will assist in OCI being able to meet the accreditation standards of the NAIC. The NAIC issues standards for jurisdictions in regulating the solvency of the insurance industry. If Wisconsin were to become unaccredited because of not meeting these standards, other jurisdictions will not be able to rely on our work and may then require Wisconsin's domestic insurers to cover the additional costs for these out-of-state regulators to perform their analysis and examinations. In addition, it would damage OCI's reputation of being a strong and fair regulator. This could eventually lead to insurers domiciling outside of Wisconsin, taking their jobs and tax revenue to other states.

On June 30, 2021, Wisconsin had 336 domestic entities it regulates of which 233 are insurance companies: including large employers, such as, American Family Insurance and Northwestern Mutual Life, among others.

## **Insurance Regulation Pressures**

Insurance regulation has been subject to increasing external and internal pressures in recent years that have forced states to respond accordingly. Fundamental changes in the structure and performance of the insurance industry have made regulating the industry more complex due to the following reasons:

- Competitive forces have caused insurers to assume increased risk in order to offer more attractive prices and products to consumers.
- Continued low interest rates have resulted in insurers investing in more complex and riskier investments to get a higher investment return.
- Insurance markets have increasingly become national and international in scope as insurers have widened the boundaries of their operations.
- High costs in some lines of insurance and the economic impact of natural and man-made disasters have focused greater public attention on regulatory decisions.

These factors have had a significant effect on state insurance regulators like OCI. Over the past two decades, the states have engaged in an unprecedented program to revamp the framework for insurance regulation to avoid a one-size-fits-all federal regulator. A good share of this effort has been directed at strengthening solvency regulation by establishing higher capital standards for insurers, expanding financial reporting, improving monitoring tools, and accrediting insurance departments. A second wave of initiatives has focused on improving the effectiveness and efficiency of market regulation. Many states have significantly enhanced their resources devoted to insurance regulation in terms of staffing, technology, and systems to support these efforts. At the same time, the NAIC has played an increasingly central role in state regulators' efforts to coordinate, strengthen, and streamline their oversight of the insurance industry.

## **Justification for Position Authority**

### **1. Additional NAIC Reporting and Analysis Requirements**

As mentioned above, in recent years the NAIC has added additional regulatory oversight to help strengthen state-based regulation. Currently, Wisconsin is required under State Statute (s. 601.43) to examine insurers as deemed necessary. In addition, Section Ins 50.50, Wis. Adm. Code mandates domestic insurers be examined every five years at minimum. Each state is responsible for conducting exams of their domestic insurers in accordance with NAIC accreditation standards. It is designed to ensure every accredited

state produces thorough and timely financial reviews of similar quality. The NAIC also requires the five-year exam minimum plus imposes additional reviews and analysis, for Wisconsin to maintain its status as an NAIC "accredited" state. The Division of Financial Regulation is currently preparing for the following additional reviews and analysis to meet NAIC accreditation standards:

- Annual Group Capital Calculation
- Liquidity Stress Testing
- Credit for Reinsurance
- Passage of NAIC model laws regarding group capital calculation, liquidity stress testing, and reinsurance rules

## 2. NAIC Accreditation

OCI will undergo its NAIC five-year accreditation pre-review/audit in October 2022 and full review/audit in October 2023. This review includes an in-depth analysis of the quality, timeliness, and accuracy of our financial exams and analysis, and company licensing function. It also looks at our ability to regulate our companies by ensuring that we have the appropriate number of staff to effectively maintain our trustworthiness and accountability as state regulators. Loss of accreditation or poor performance due to understaffing could result in a reduction in the number of insurers choosing to domicile in our state as well as jeopardize our domestic insurance market. It should be noted, in some cases, insurers base their decision to locate their headquarters and main employee workforce in the state of their domestic regulator, i.e., American Family Insurance and Northwestern Mutual Life. In addition, the loss of our NAIC accredited status means that other states can no longer rely on the quality, accuracy, or trustworthiness of Wisconsin's financial exams and regulatory oversight. In this case, our domestic insurers will be subject to multiple financial exams from each state they write business in which may also result in additional cost to these insurers. Multiple financial exams would have a significant impact on our multi-state domestic insurers.

## 3. Growth of Wisconsin Insurance Market

The Wisconsin domestic insurers have grown over the past five years based on assets and premium volume:

<b>Year</b>	<b>Assets</b>	<b>Year over Year % Change</b>	<b>Nationwide Direct Premium</b>	<b>Year over Year % Change</b>
2016	\$446,521,638,979		\$ 98,537,846,517	
2017	481,987,626,433	7.9%	100,681,057,864	2.2%
2018	492,306,496,048	2.1	108,010,931,938	7.3
2019	530,994,202,694	7.9	114,457,994,104	6.0
2020	567,643,068,874	6.9	119,488,698,180	4.4

Over the past five years insurer's assets and nationwide direct premiums have increased 27.1% and 21.3%, respectively. The growth is attributable to more companies being domiciled in Wisconsin, Wisconsin companies increasing their overall business volume, etc. As the Wisconsin insurance industry continues to grow year over year, it further strains our resources in performing timely and quality in-depth analysis and examinations.

### **Consequences if Position Authority is not Granted**

- Town mutual financial exams will be placed on hold which may result in missed town mutual solvency concerns and our ability to address these concerns early. Delayed town mutual exam may affect Wisconsin's rural businesses and farms should insolvency occur.
- Due to backlog issues, Wisconsin will become less attractive for insurers who are looking to re-domicile here.
- Current domestic insurers may choose to domicile in another state that more effectively and quickly addresses their regulatory needs.
- Timeliness of five-year exams could be delayed which is likely to result in an unfavorable NAIC accreditation report and is a violation of Wisconsin State Statute requirements.
- Loss of NAIC accreditation would significantly harm Wisconsin's domestic industry as each company could be examined separately by each state in which they write business.
- Inability of Division of Financial Regulation to adequately staff exams of insurers where there is a need to conduct additional solvency review prior to the five-year requirement.
- Division of Financial Regulation may need to hire outside contract examiners, which will result in greater cost to the industry and less effective regulation.

### **Revenue Sources for Appropriation**

This position is funded by OCI's s. 20.145 (1) (g), Wis. Stats. general program operations appropriation which derives from a mixture of assessments levied by OCI on insurance companies and fees paid by insurance agents to OCI. All of the costs will be covered through this appropriation without using any taxpayer dollars.

## **Conclusion**

This request would allow the Division of Financial Regulation to achieve prudent examination cycle, perform appropriate level of financial analysis, and complete its other duties in accordance with the NAIC accreditation requirements. Making this position a permanent FTE would not require any GPR dollars. It would be neutral compared to the past three-year years for the annual assessment billing of domestic insurers under s. Ins 16.01, Wis. Adm. Code, for funding of the examination function. We believe that funding this position is important to Wisconsin domestic insurers, our economy, and our workforce.